



Professional Service Agreement

THIS AGREEMENT, made and entered into _____, by and between K Friese & Associates, Inc. (KFA) and the Client identified herein, provides for the Professional Services described under Item 2 of this Agreement.

CLIENT: _____ City of Aransas Pass Phone Number: (361) 758-5301
ADDRESS: _____ P.O. Box 2000 Fax Number: (361) 214-1759
_____ Aransas Pass, Texas 78335 Contact Person: Mr. Gary Edwards
Project Number: _____
Project Title: FEMA Hazard Mitigation Assistance (HMA) Engineering Services

1. DESCRIPTION OF PROJECT SITE:

Varying locations. Structures to be identified by the City.

2. SCOPE OF SERVICES TO BE PROVIDED BY KFA:

(if additional pages are necessary, they are identified as Attachment A):

Engineering grant support services related to the preparation and submittal of project applications. Task Order #1 includes FEMA HMA pre-award engineering grant services for the City identified mitigation projects, including structure elevations for up to 10 single-family residential homes, and as further described in Attachment A.

3. THE COMPENSATION TO BE PAID KFA for providing the requested services shall be

(if additional pages are necessary, they are identified as Attachment B):

- ☐ Direct personnel expense plus a surcharge of _____%, plus reimbursable costs.*
- ☐ A Lump-Sum charge of \$_____, plus out of pocket expenses.*
- ☒ Unit Cost/Time Charges identified in Attachment B, plus reimbursable costs.*
- ☐ Other – See Attachment B.

* See explanation under Item 5 below.

4. IF KFA's SERVICES UNDER THIS AGREEMENT ARE DELAYED for any reasons beyond KFA's control, the time of performance shall be adjusted appropriately. Except where the services provided are under a continuous service contract for more than one year, if the services under this Agreement are delayed for a period of more than one (1) year from the beginning date (as above provided), the fees shall be subject to renegotiation; any change in such fees shall apply only to the unfinished services as of the effective date of such change.

This Agreement is subject in all respects to the Terms and Conditions attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, this Agreement is accepted on the date written above and subject to the terms and conditions set forth herein.

CLIENT: City of Aransas Pass

K Friese & Associates, Inc.

SIGNED: _____

SIGNED: _____

NAME: Gary Edwards

NAME: Thomas M. Owens, P.E.

TITLE: City Manager

TITLE: Executive Vice President

DATE: _____

DATE: _____

TERMS AND CONDITIONS

5. **COMPENSATION:** Direct personnel expenses shall be defined as: the cost of salaries and fringe benefit costs related to vacation, holiday, and sick leave pay; contributions for Social Security, Workers' Compensation Insurance, retirement benefits, and medical and insurance benefits; unemployment and payroll taxes; and other allowed benefits of those employees directly engaged in the performance of the requested service.

Reimbursable costs include: fees of Professional Associates (whose expertise is required to complete the project) and out-of-pocket expenses, the cost of which shall be charged at actual costs plus an administrative charge of 10% and shall be itemized and included in the invoice. Typical out-of-pocket expenses shall include, but not be limited to, travel expenses (lodging, meals, etc.) job-related mileage at the prevailing Company rate, long distance telephone calls, courier, printing and reproduction costs, and survey supplies and materials. In the event the requested service involves the use of special equipment an additional direct charge shall be made for the use of this equipment.

It is understood and agreed that KFA services under this Agreement are limited to those described in Item 2 hereof (and Attachment A if applicable) and do not include participation in or control over the operation of any aspect of the project. Compensation under this Agreement does not include any amount for participating in or controlling any such operation. The scope of services under this Agreement will not change without the written consent of KFA, and if the scope of services increase, the compensation payable to KFA shall be equitably increased as well.

6. **INVOICE PROCEDURE AND PAYMENT:** KFA shall submit invoices to the Client for work accomplished during each calendar month. For services provided on a Lump Sum basis, the amount of each monthly invoice shall be determined on the "percentage of completion method" whereby KFA will estimate the percentage of the total work (provided on a Lump Sum basis) accomplished during the invoicing period. Monthly invoices shall include, separately listed, any charges for services for which time charges and/or unit costs shall apply. Such invoices shall also include, separately listed, any charges for Professional Associates and reimbursable costs. Such invoices shall be submitted by KFA as soon as possible after the end of the month in which the work was accomplished and shall be due and payable by the client upon receipt.

The Client, as owner or authorized agent for the owner, hereby agrees that payment as provided herein will be made for said work within 30 days from the date the invoice for same is mailed to the Client at the address set out herein or is otherwise delivered, and, in default of such payment, hereby agrees to pay all costs of collection, including reasonable attorney's fees, regardless of whether legal action is initiated. The Client hereby acknowledges that unpaid invoices shall accrue interest at the maximum rate allowed by law after they have been outstanding for over 30 days. KFA reserves the right to suspend all services on the Client's project without notice, and/or to terminate this Agreement, if an invoice remains unpaid 45 days after date of invoice. The suspension shall remain in effect until all unpaid invoices are paid in full.

It is understood and agreed that KFA services under this Agreement do not include participation, whatsoever, in any litigation. Should such services be required, a Supplemental Agreement may be negotiated between Client and KFA describing the services desired and providing a basis for compensation to KFA.

7. **COST ESTIMATES:** Client hereby acknowledges that KFA cannot warrant that any cost estimates provided by KFA will not vary from actual costs incurred by the Client.

8. **LIMIT OF LIABILITY:** The limit of liability of KFA to the Client for any cause or combination of causes shall be, in total amount, limited to the fees paid under this Agreement, and in no event will KFA be liable to Client for any punitive, special, incidental, or consequential damages.

9. **CONSTRUCTION SERVICES:** If, under this Agreement, professional services are provided during the construction phase of the project, KFA shall not be responsible for or have control over means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work; nor shall KFA be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents or for the Contractor's failure to comply with applicable laws, ordinances, rules or regulations.

10. **INSURANCE:** KFA shall at all times carry Workers Compensation Insurance as required by statute; commercial general liability insurance including bodily injury and property damage; automobile liability coverage; and professional liability coverage. Insurance certificates will be provided to the Client upon request. Client agrees to require that KFA is named as an additional insured on insurance coverage provided by contractors on the project.

11. **ASSIGNMENT:** Neither the Client nor KFA will assign or transfer its interest in this Agreement without the written consent of the other. Notwithstanding the foregoing, KFA may hire subcontractors to work on the project and to assist KFA in performing services hereunder.

12. **SUSPENSION, TERMINATION, CANCELLATION OR ABANDONMENT :** In the event the project described in Attachment A, or the services of KFA called for under this Agreement, is/are suspended, cancelled, terminated or abandoned by the Client, KFA shall be given seven (7) days prior written notice of such action and shall be compensated for the professional services provided up to the date of suspension, termination, cancellation or abandonment in accordance with the provisions of this Agreement for all work performed up to the date of suspension, termination, cancellation or abandonment, including reimbursable expenses.

13. **ENTIRETY OF AGREEMENT:** This writing including attachments and addenda, if any, embodies the entire agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby. No alteration, change or modification of the terms of this Agreement shall be valid unless made in writing signed by both parties hereto.

14. **DOCUMENTS:** Any reuse by the Client or others of documents and plans that result from KFA services under this Agreement shall be at Client's or others' sole risk without liability to KFA. Client agrees to provide full information to KFA regarding any project and property covered by this agreement, including, without limitation, copies of all reports, surveys, restrictions, and other data related thereto. Client will assist KFA in gaining entry to public and private property as necessary for KFA to perform under this Agreement.

15. **WAIVER:** Any failure by KFA to require strict compliance with any provision of this contract shall not be construed as a waiver of such provision, and KFA may subsequently require strict compliance at any time, notwithstanding any prior failure to do so.

16. **DISPUTE RESOLUTION:** If a dispute arises out of or relates to this Agreement or the breach thereof, the parties will attempt to settle the matter between themselves. If no agreement can be reached the parties agree to use mediation with a mutually agreed upon mediator before resorting to a judicial forum. The cost of a third party mediator will be shared equally by the parties. In the event of litigation, the prevailing party will be entitled to reimbursement of all reasonable costs and attorneys' fees. The parties mutually agree that a similar dispute resolution clause will be contained in all other contracts executed by Client concerning or related to this contract and all subcontracts executed by KFA.

17. **HAZARDOUS WASTE, MATERIAL OR SUBSTANCES:** Unless otherwise specifically provided in this Agreement, KFA shall not be responsible for or have control over the discovery, presence, handling, removal, transport or disposal of hazardous waste, materials or substances in any form on the project site.

18. **GOVERNING LAW:** This Agreement shall be governed by and construed according to the laws of the State of Texas.

19. **INTELLECTUAL PROPERTY:** With the sole exception of specifically marked reproducible materials subject to the Limited Copyright License herein, all worldwide right, title and interest in and to any and all Intellectual Property conceived, invented, authored or otherwise made by or on this Agreement shall remain the sole and exclusive property of KFA, its successors and assigns unless licensed or assigned by KFA pursuant to a separate written instrument. The term "Intellectual Property" shall be construed broadly to include all forms of intellectual property including without limitation all inventions, discoveries, designs, plans, improvements, trademarks, service marks and copyrights in drawings, computer programs, architectural works, and in all other original works of authorship. KFA grants Client a paid-up, non-transferable, non-exclusive license to make or have made copies of any copyrightable materials delivered under this Agreement and specifically marked by KFA as "Reproduction Authorized".

ATTACHMENT A– Scope of Services
ATTACHMENT B – Compensation
ADDENDA A (if required)

ATTACHMENT A
CITY OF ARANSAS PASS
FEMA HAZARD MITIGATION ASSISTANCE (HMA)
ENGINEERING SERVICES

PROJECT DESCRIPTION

The City of Aransas Pass has requested engineering services related to the FEMA Hazard Mitigation Assistance (HMA) Program. KFA will assistance with Pre-Award and Post-Award services.

SCOPE OF SERVICES **Task Order #1**

1. Project Management and Administration

- 1.1 Project Management and Administration – This task includes routine communication with Aransas Pass, managing subconsultants, manpower, budgets, schedules, and invoicing. It is assumed that all packages will be invoiced together on one master invoice and that a master schedule for all packages will be prepared and updated.

2. Pre-Award Engineering Grant Services for Mitigation Projects – Construction

Projects are anticipated to include:

- A. Structure Elevations (up to 10 single-family residential homes)
 - Description of project and benefit
 - Identification of homes
 - Design and construction budget
 - Scope of work
- 2.1 Application preparation assistance including Scope of Work (SOW), budget and schedule estimates
- 2.2 Provide assistance regarding feasibility and effectiveness
- 2.3 Coordinate responses to funding agency request for information (RFI)
- 2.4 Other related services engineering services for pre-award support of Mitigation Projects.

3. Exclusions

- 3.1 The scope of services for this Task Order covers only assistance with the application preparation related to pre-award engineering services.
- 3.2 This Task Order specifically excludes the development of an environmental assessment. If an assessment is required by FEMA, a separate Task Order will be developed for the completion of an environmental assessment.

ATTACHMENT A
CITY OF ARANSAS PASS
FEMA HAZARD MITIGATION ASSISTANCE (HMA)
ENGINEERING SERVICES

- 3.3 This Task Order specifically excludes management of grant, preliminary and final design plans and specifications, preparation of the bid package, conducting field testing and inspections and other special services. If the grant application is approved, a separate Task Order will be developed for the engineering services related to any successful HMA application.

4. Compensation for Services

- 4.1 Basic Services (time & materials)
Total compensation under Task Order #1, for and in consideration of services for assistance with the pre-award application engineering grant services shall be a not-to-exceed amount of \$49,000.

The above pricing represents the maximum cost ceiling. The pricing will be included in each of the HMA applications to be developed. If approved, the City will be reimbursed by the awarding funding agency for 75 percent (%) of the total cost ceiling.

CONTRACT FOR SERVICES

This contract is made this **19th** day of **December, 2021**, by and between

Munoz Engineering of 1608 South Brownlee Boulevard, Corpus Christi, Texas 78404 hereinafter referred to as **Provider**, and

K+FRIESE of 10001 Reunion Place, Suite 404, San Antonio, Texas 78216 hereinafter referred to as **Client**.

Provider hereby agrees to perform the following Engineering services for the **Client**

SCOPE OF WORK FEMA HAZARD MITIGATION GRANT – PRE AWARD ARANSAS PASS, TEXAS

BASIC SERVICES:

STRUCTURAL ENGINEERING

1. Perform a site visit to determine at the following locations:
 - a. 243 E. Magnolia
 - b. 1040 S. Arch
 - c. 360 N Railroad St.
 - d. 751 S. Houston
 - e. 246 E. Stoddard Ave
 - f. 721 S. Houston
 - g. 761 S. Houston
2. The purpose of the site visit is to determine the following:
 - a. A description of the elevation method for each structure and the steps required to implement the mitigation activity, including the following: Mechanism for elevation (e.g., continuous foundation walls; elevation on open foundations, such as piles, piers, posts, or columns; and elevating on fill).
 - b. Date structure was built.
 - c. Building type (e.g., one story residential, apartment, police station, hospital, mobile home) Structure information, including the size of the house, number of stories, existence of attached garage, and description of outbuildings, if present
 - d. Provide a description of the construction type (e.g., wood frame, masonry, concrete) and existing condition.
 - e. Provide a description of the foundation.
 - f. Description of activities needed to elevate utilities, if known.
 - g. Description of debris disposal and erosion control (if necessary).
 - h. A description of any additional building code standards that will be followed.
 - i. Provide photographs of all sides of the building showing the foundation and entrances. For each photograph, provide a descriptive caption explaining what the photo shows, the direction it was taken (e.g., "looking east" or "east side of building, looking west"), side of the structure shown (e.g., front, back), and other relevant details.
3. After site visit determine if the structure feasible to be elevated and will be effective at reducing risk. Engineering or design plans may be conceptual in nature at the time of project application and can be developed following award.
4. Provide a general project schedule, design budget and construction estimate to perform the work.
5. Provide a letter report summarizing the above signed and sealed by a Texas Licensed Professional Engineering specializing in Structural Engineering.

SPECIAL SERVICES:

6. Provide an As Built Construction Elevation Certificate.

ITEMS TO BE PROVIDED BY CLIENT:

7. Provide access to site.

The Provider proposes to perform the above listed **Scope of Work** for the following on hourly basis plus materials:

BASIC SERVICES:

STRUCTURAL ENGINEERING

Letter Report for Each Location

5 hours x Engineer VIII \$187.00

10 hours x Engineer VI \$135.50

10 hours x Technician II \$ 54.50

\$ 2,835.00

SUBTOTAL: \$ 19,875.00

SPECIAL SERVICES:

ELEVATION CERTIFICATE

As Built Construction X \$1,500 Each

SUBTOTAL: \$ 10,500.00

TOTAL FEES:\$ 30,345.00

PAYMENT SCHEDULE:

BASIC SERVICES:

Engineering Hourly

SPECIAL SERVICES:

Elevation Certificates Hourly

[REDACTED]

Provider shall provide all professional and technical personnel required for the performance of the services described under Scope of Work except for the following:

Construction Material Testing, Laboratory Material Testing

Construction Inspections in accordance with Chapter 17 of the IBC “Structural Tests and Special Inspections.”

Construction Survey

Permitting or Filing Fees

If this contract meets with your approval, please indicate your acceptance by signing and returning one signed copy and therefore we have executed this contract on:



12/19/2021

Munoz Engineering

Date

Client

Date

Ramiro Munoz III, PE

K FRIESE & ASSOCIATES, INC.

ATTACHMENT B 2021 BILLING RATE SCHEDULE City of Aransas Pass – General Engineering Services FEMA Hazard Mitigation Assistance (HMA) Engineering Services

Billing Rates

Personnel labor is billed at the following hourly rates:

Rate Category

Principal/Senior Technical Advisor	\$ 350.00
Quality Manager	\$ 240.00
Senior Project Manager	\$ 230.00
Senior Engineer	\$ 200.00
Project Manager	\$ 190.00
Project Engineer	\$ 180.00
Design Engineer	\$ 150.00
Engineer in Training	\$ 125.00
Senior CADD Technician	\$ 110.00
Senior CADD Operator	\$ 120.00
CADD Operator	\$ 100.00
Senior GIS Operator	\$ 125.00
Administrative/ Clerical	\$ 90.00

Sub-Consultants

Sub-consultants are billed at cost with no mark-up applied.

Travel and Subsistence

Mileage will not be charged per the terms of the contract for lump sum services.

Reimbursable Costs

Reimbursable costs include “out of pocket” expenses, the cost of which shall be charged at actual costs plus any administrative charge, as described in the contract, and shall be itemized and included in the invoice.

Typical out-of-pocket expenses shall include, but not be limited to, travel expenses (mileage, lodging, meals, etc.), long distance telephone calls, courier, and printing and reproduction costs. In the event the requested service involves the use of electronic measuring equipment, computers, plotters, and other special equipment such as boats, etc., an additional direct charge shall be made for the use of this equipment.

Note: Billing Rates are subject to adjustments annually in the contract option year.